

ORDINANCE NO. 2008-09-1

**AN ORDINANCE TO CREATE A STORM WATER UTILITY FOR
THE CITY OF CROWN POINT, INDIANA**

WHEREAS, the City of Crown Point (the "City") has established a Board of Public Works and Safety which controls and operates the City's water utility (Ord. No. 1250, passed 12-6-1982) pursuant to I.C. 8-1.5-3; and

WHEREAS, the City of Crown Point has removed the jurisdiction of the Indiana Utilities Regulatory Commission pursuant to I.C. 8-1.5-3-9-1 over the water utility owned and operated by the City (Ord. No. 1544, passed 9-4-1990); and

WHEREAS, the City of Crown Point, under the provisions of I.C. 36-9-1-8 is empowered to create a Storm Water Utility within the division of City Utilities; and

WHEREAS, the City has experienced has several recent major flooding events, resulting in substantial damage and causing problems throughout the City. It has resulted in property loss and damage on a widespread basis throughout Crown Point; and

WHEREAS; the City has found itself experiencing these major rain events for the last two to three years and citizens have called for improvements to the storm water conveyance system; and

WHEREAS, the City has recognized that an emergency exists and actions must be taken to begin the process of correcting major storm water issues throughout the City; and

WHEREAS, the City finds itself in challenging economic times due to the fact that the State has frozen the levy growth on property taxes and the City has no access to any income taxes. A delay in billing property taxes, by the County, has resulted in substantial borrowing, by the City, from other entities; and

WHEREAS, the implementation of an interim storm water rate and various other charges (such as Connection Fee and Permitting Fee) is immediately needed in order to assist the city in moving forward to meet the immediate and ongoing needs of its citizens; and

WHEREAS, the implementation of a storm water user fee will assist the City in addressing separation needs now and going forward; and

WHEREAS, on the basis of reviewing rate structures established by other municipalities within the State of Indiana and Lake County it has been determined that a system of user fees based on the average residential surface area determined by a random statistical sample of individual parcels of real property located within the corporate boundaries of the city is a fair and non-discriminatory basis for imposing such storm

water utility user fees; and

WHEREAS, the Common Council the Mayor and the Board of Public Works and Safety have determined that every parcel of real property located within the corporate boundaries of Crown Point contributes storm water to Crown Point's storm water management system.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF CROWN POINT, LAKE COUNTY, INDIANA, AS FOLLOW:

An emergency exists in the City that necessitates the City to implement an interim storm water rate, to be reconciled and modified within 180 days, upon approval of this Ordinance.

ALSO BE IT ORDAINED THAT:

That the City of Crown Point, Indiana Code of Ordinances is hereby amended by the addition of Chapter 53 as attached hereto.

CHAPTER 53: STORMWATER REGULATIONS

Section

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STORM WATER UTILITY

§ 53.01 PURPOSE AND INTENT.

The purpose and intent of this subchapter is to promote the health, safety and general welfare of the inhabitants of the city by establishing a Storm Water Utility sufficient to plan, control, operate and maintain the city's storm water management system.

(Ord. No. 2008-09-1, passed 10-6-08)

§ 53.02 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply (words used in the singular shall include the plural, and the plural, the singular; words used in the present tense shall include the future tense. The word "SHALL" is mandatory and not discretionary. The word "MAY" is permissive. Words not defined herein shall be construed to have the meanings given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

"ABATEMENT" Any action taken to remedy, correct, or eliminate a conditions within, associated with, or impacting a storm water drainage system.

"AGRICULTURAL PROPERTY" A parcel of land or lot having an area in excess of five (5) acres and encompassing two (2) or more structures used to support agricultural activities.

"ANALYSIS" Computation conducted by the City to determine parcel size by the use of aerial photography, photogrammetry, and GIS technology.

"APARTMENT/CONDOMINIUM PROPERTY" A lot or parcel of land on which is situated a building containing five (5) or more single-family dwelling units, or on which two (2) or more buildings each containing multiple single-family dwelling units are situated.

"APPROVED PLANS." Plans approved by the authorized official according to a permit and plan review which will govern all improvements made within the city that require a storm water system or changes or alterations to the existing storm water system.

"AUTHORIZED OFFICIAL." Any employee or agent of the city authorized in writing by the Board to administer or enforce the provisions of this subchapter.

"BOARD." The Board of Public Works and Safety pursuant to IC 36-1-2-24(2).

"CITY." The incorporated City of Crown Point, Lake County, Indiana.

"CODE." The City of Crown Point, Indiana Code of Ordinances.

"ERU" Equivalent Residential Unit. A unit value equal to the average area of a residential parcel within the City of Crown Point is established at 0.65 acres. It is also the basis for calculating the proper assessment of storm water charges to all users of the Crown Point Storm Water System.

"LOT/PARCEL" A part or portion of land having a legal description that is formally set forth in a conveyance instrument.

"NON-RESIDENTIAL PROPERTY." All properties not encompassed within the definition of residential property, including but not limited to: agricultural, commercial, industrial, retail, apartment and condominium, mobile home parks, governmental, institutional, schools, churches and any other property not mentioned herein and not specifically defined as Residential or Vacant Residential property. Said Non-Residential Property shall be assigned an ERU based upon said properties' individually measured (the analysis) area divided by one (1) ERU. This division will be calculated the the first decimal place (nearest tenth of one ERU).

"RESIDENTIAL PROPERTY." For the purpose of this Ordinance, Residential Property refers to a lot or parcel or contiguous lots or parcels of single ownership of real property on which a building or mobile home is situated, which building contains a group of rooms forming a single inhabitable dwelling unit with facilities that are used or are intended to be used primarily for living, sleeping, cooking or eating. This definition also includes a lot containing four (4) or fewer separate or contiguous single-family dwelling units. Each and every residential unit shall be assigned one (1) ERU. A residential property having a land area in excess of five (5) acres shall be assigned (1) ERU for the first five (5) acres, and the remaining acres in excess of five (5) acres shall be calculated according to size and additional ERUs (calculated to the nearest tenth of one ERU) shall be billed accordingly.

"STORM WATER." The chemical compound of hydrogen and oxygen which is produced from atmospheric clouds as rain, snow, sleet, and hail.

"STORM WATER SYSTEM." All constructed facilities, including structures and natural watercourses under the ownership, and/or control of the city, used for collecting and conducting storm water to, through and from drainage areas to the point of final outlet, including, but not limited to, any and all of the following: inlets, conduits and appurtenant features, creeks, channels, catch basins, ditches, streams, streets, culverts, retention or detention basins and pumping stations; and excluding therefrom, any part of the system of drains and watercourses under the jurisdiction of the Lake County Drainage Board or waters of the State of Indiana.

"STORM WATER UTILITY." A division of the sewer and water works as defined in IC 36-9-1-8.

"STORM WATER UTILITY USER." The owner of a lot or parcel within the city.

"SURFACE WATER." Water occurring on the surface of the land, from natural causes such as rainfall, whether falling on the land in question or flowing onto the land in question.

"VACANT RESIDENTIAL PROPERTY" A lot or parcel of real property on which there does not exist a building or mobile home and which has a residential zoning classification. A vacant residential property in excess of five (5) acres in size shall be assigned a 1/3 ERU for the first five (5) acres, thereafter the remaining acreage shall be calculated according to the size and additional ERUs (calculated to the nearest tenth of one ERU) shall be billed accordingly.

(Ord. No. 2008-08-30, passed 10-6-08)

§ 53.03 CREATION OF STORM WATER UTILITY.

A Storm Water Utility is hereby created as part of the city sewage works. Said utility shall be responsible for all storm sewers and the collection and disposal of storm drainage. Said utility shall also be responsible for the implementation of all federal and state mandates regarding storm water drainage and erosion control.

(Ord. No. 2008-09-1, passed 10-6-08)

§ 53.04 GOVERNING BOARD.

The utility shall be governed by the Board of Public Works and Safety. This utility shall have the same governing board as that which governs the sewage and water works.

(Ord. No. 2008-09-1, passed 10-6-08)

§ 53.05 AREA SERVED BY STORMWATER UTILITY.

The corporate limits of the city.

(Ord. No. 2008-09-1, passed 10-6-08)

§ 53.06 POWERS AND DUTIES OF UTILITY.

(A) The Board of Public Works and Safety shall have all those powers and duties provided by such boards by IC Titles 8 and 36 and more specifically but not limited to the following:

- (1) The power to enter into contracts.
- (2) The power to employ professionals.
- (3) The power to acquire, construct, maintain, and improve the storm water utility structures.
- (4) The power to make plans and recommend ordinances to the Common Council regarding the collection and disposal of storm water within the city.

(B) The Common Council should have all those powers and duties provided the municipal legislative body by IC Title 36 and more specifically but not limited to the following:

- (1) The power to pass ordinances as provided for by Title 36 which impose just, reasonable and equitable fees or service charges for those who utilize the storm water system and penalties to those who violate provisions of ordinances established for storm water control and drainage, as provided for in IC 36-9-23-25.
- (2) The power to issue revenue bonds pursuant to I.C. 36-9-23 and borrow money to acquire real estate, design, plan, construct, maintain and improve storm water utility structures.

(Ord. No. 2008-09-1, passed 10-6-08)

§ 53.07 CREATION OF A STORM WATER UTILITY OPERATING, MAINTENANCE AND DEBT RESERVE FUND.

(A) A storm water utility OPERATING, MAINTENANCE AND DEBT RESERVE FUND is hereby created. All proceeds received as a result of user fees and charges or penalties assessed by this subchapter or subsequent amendments hereto shall be deposited

in said storm water utility fund. Proceeds from this fund shall be for the exclusive use of the city's storm water utility which includes, but is not limited to, the following:

- (1) Storm water management services, such as studies, design, permit review, plan preparation development review and legal services.
- (2) Operation, maintenance, repair and replacement of the storm water collection, storage, conveyance, and/or treatment infrastructure.
- (3) Project costs related to constructing major or minor structural improvements to the city's storm water related infrastructure.
- (4) Administrative and legal costs associated with the management of the storm water utility user fee.
- (5) Debt service financing of the city's storm water related capital improvements.
- (6) Funding of studies such as water quantity and quality monitoring, aerial photography, and geotechnical work associated with the planning of the storm water-related infrastructure.

(B) This would include but be not limited to the implementation of long range storm water plans developed and approved by the Indiana Department of Environmental Management for elimination of combined sewer overflows and the construction of storm water drains and sewers and maintain same within the city limits and the area served by the sewage works. All such expenditures for both capital and operating expenses must be first approved by the Board of Public Works and Safety.

(Ord. No. 2008-09-1, passed 10-6-08)

§ 53.08 STORMWATER UTILITY USER FEE.

A storm water utility user fee shall be imposed on each and every lot or parcel of real property within the city including those classified as non-profit or tax exempt, for services and facilities provided by the storm water utility. This user fee is deemed reasonable and necessary to pay for the repair, replacement, planning, improvement, operation, regulation and maintenance of the existing and future storm water system of the city.

(Ord. 2008-09-1, passed 10-6-08)

§ 53.09 STORMWATER UTILITY USER FEE STRUCTURE.

For the purposes stated herein, there is hereby assessed a storm water utility user fee to each storm water utility user within the corporate limits of the city in an amount as determined below. For purposes of imposing the storm water utility user fee, all lots and parcels within the city are classified as either:

- (A) Residential, or
- (B) Non-residential,

(Ord. No. 2008-09-1, passed 10-6-08)

§ 53.10 SCHEDULE OF RATES.

(A) The monthly storm water utility user fee for all residential properties within the city shall be \$6. The Common Council by ordinance may amend the monthly charge established in this section during its bi-annual review.

(B) Until such time that the city completes the analysis, the monthly storm water utility user fee imposed for non-residential properties as defined herein shall be \$12. Upon the city's completion of the analysis and computations thereon, the monthly storm water utility user shall be amended by the Common Council and from time to time thereafter.

(Ord. No. 2008-09-1, passed 10-6-08)

§ 53.11 BILLING AND PAYMENT; PENALTIES.

(A) Bills or statements for the storm water utility user fee shall be rendered monthly, in accordance with the regular sewage utility billing cycle, by the Clerk/Treasurer of the city for all properties subject to the fee. Bills shall be payable at the same time and in the same manner and subject to the same penalties as set forth for the sewer utility. Any partial payment of a combined utility bill shall be applied first to the garbage fee then to the storm water utility user fee, then to the garbage penalty and then to the storm water utility penalty. Any unpaid storm water utility user fees shall constitute a lien on such property except the liens of state, county and municipal taxes and shall be on a parity with the lien of such state, county and municipal taxes. Such lien, when delinquent for more than 30 days, may be foreclosed by the city in the manner provided by the laws of Indiana for the foreclosure of mortgages on real property.

(B) For properties normally receiving monthly utility bills for other city services, the storm water utility user fee shall be included in the monthly sewage utility bill rendered to the established customer.

(C) For properties not receiving monthly utility bills for other city services, the bill or statement for the storm water utility user fee shall be sent to the storm water utility user as determined from the tax rolls. The authorized official may render annual, semiannual, or monthly billings, to be billed in arrears, to coincide with the property tax schedule, on such properties if determined to be the best interest of the city.

(D) The owner of a property is ultimately responsible for all fees imposed under this subchapter.

(Ord. No. 2008-09-1, passed 10-6-08)

§ 53.12 PERIODIC LEGISLATIVE RATE REVIEW.

Realizing that an Emergency Exists for passage of this Ordinance said rates established herein, after the City's analysis is complete, shall be reviewed and adjusted if necessary by the Common Council in 180 days and Bi-Annually thereafter.

(Ord. No. 2008-09-1, passed 10-6-08)

ILLICIT DISCHARGES AND CONNECTIONS

§ 53.20 PURPOSE AND INTENT.

The purpose of this subchapter is to provide for the health, safety, and general welfare of the citizens of the city through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This subchapter establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this subchapter are:

(A) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by storm water discharges by any user;

(B) To prohibit illicit connections and discharges to the municipal separate storm sewer system; and

(C) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this subchapter.

(Ord. No. 2008-09-1, passed 10-6-08)

§ 53.21 DEFINITIONS.

For the purposes of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"AUTHORIZED ENFORCEMENT AGENCY." The Crown Point Board of Public Works is designated to enforce this subchapter.

"BEST MANAGEMENT PRACTICES (BMPs)." Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water conveyance systems. "**BMPs**" also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

"CLEAN WATER ACT." The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

"CONSTRUCTION ACTIVITY." Activities subject to NPDES construction permits. NPDES storm water phase II permits will be required for construction projects resulting in land disturbance of one acre or more. Such activities include, but are not limited to, clearing and grubbing, grading, excavating, and demolition.

"HAZARDOUS MATERIALS." Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

"ILLEGAL DISCHARGE." Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in § 53.25.

"ILLICIT CONNECTIONS." An illicit connection is defined as either of the following:

(1) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or,

(2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

"INDUSTRIAL ACTIVITY." Activities subject to NPDES industrial permits as defined in 40 CFR, Section 122.26(b)(14).

"NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT." A permit issued by EPA (or by a state under authority delegated pursuant to 33 USC § 1342(b) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

"NON-STORMWATER DISCHARGE." Any discharge to the storm drain system that is not composed entirely of storm water.

"PERSON." Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

"POLLUTANT." Anything which causes or contributes to pollution.
"POLLUTANTS" may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

"PREMISES." Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

"STORM DRAINAGE SYSTEM." Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures, including storm drainage systems ultimately connecting to combination sewers.

"STORM WATER." Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

"STORM WATER POLLUTION PREVENTION PLAN." A document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to

eliminate or reduce pollutant discharges to storm water, storm water conveyance systems, and/or receiving waters to the maximum extent practicable.

"WASTE WATER." Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

(Ord. No. 2008-09-1, passed 10-6-08)

§ 53.22 APPLICABILITY.

This subchapter shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

(Ord. No. 2008-09-1, passed 10-6-08)

§ 53.23 RESPONSIBILITY FOR ADMINISTRATION.

The city shall administer, implement, and enforce the provisions of this subchapter. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the director of the authorized enforcement agency to persons or entities acting in the beneficial interest of or in the employ of the agency.

(Ord. No. 2008-09-1, passed 10-6-08)

§ 53.24 ULTIMATE RESPONSIBILITY.

The standards set forth herein and promulgated pursuant to this subchapter are minimum standards; therefore this subchapter does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

(Ord. No. 2008-09-1, passed 10-6-08)

§ 53.25 DISCHARGE PROHIBITIONS.

(A) Prohibition of illegal discharges.

(1) No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water.

(2) The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

(a) The following discharges are exempt from discharge prohibitions established by this subchapter: water line flushing or other potable water sources (if dechlorinated - typically less than one PPM chlorine), landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active ground water dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if dechlorinated - typically less than one PPM chlorine), fire fighting activities, and any other water source not containing pollutants.

(b) Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.

(c) Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test.

(d) The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

(B) Prohibition of illicit connections.

(1) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.

(2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(3) A person is considered to be in violation of this subchapter if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

(Ord. No. 2008-09-1, passed 10-6-08)

§ 53.26 SUSPENSION OF MS4 ACCESS.

(A) Suspension due to illicit discharges in emergency situations. The city may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present

imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to persons.

(B) Suspension due to the detection of illicit discharge.

(1) Any person discharging to the MS4 in violation of this subchapter may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration and hearing.

(2) A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the authorized enforcement agency.

(Ord. No. 2008-09-1 passed 10-6-08)

§ 53.27 INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the city authorized enforcement agency prior to the allowing of discharges to the MS4.

(Ord. No. 2008-09-1, passed 10-6-08)

§ 53.28 MONITORING OF DISCHARGES.

(A) Applicability. This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.

(B) Access to facilities.

(1) The city shall be permitted to enter and inspect facilities subject to regulation under this subchapter as often as may be necessary to determine compliance with, this subchapter. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.

(2) Facility operators shall allow the city ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.

(3) The city has the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's storm water discharge.

(4) The city has the right to require the discharger to install, at the discharger's cost, monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm water flow and quality shall be properly calibrated to ensure their accuracy.

(5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the city and shall not be replaced. The costs of clearing such access shall be borne by the operator.

(6) Unreasonable delays in allowing the city access to a permitted facility is a violation of a storm water discharge permit and of this subchapter. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this subchapter.

(7) If the city has been refused access to any part of the premises from which storm water is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this subchapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this subchapter or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

(Ord. No. 2008-09-1, passed 10-6-08)

§ 53.29 REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORMWATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.

The city will adopt requirements identifying best management practices for activities, operations, or facilities which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the United States. Absence of specific requirements or standards does not alleviate the responsibility of the discharger to comply

with the requirements of this subchapter and other applicable state and federal laws. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a storm water pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

(Ord. No. 2008-09-1, passed 10-6-08)

§ 53.30 WATERCOURSE PROTECTION.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

(Ord. No. 2008-09-1, passed 10-6-08)

§ 53.31 NOTIFICATION OF SPILLS.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the United States, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City of Crown Point within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the

actions taken to prevent its recurrence. Such records shall be retained for at least three years.

(Ord. No. 2008-09-1, passed 10-6-08)

§ 53.32 ENFORCEMENT.

(A) Notice of violation. Whenever the city finds that a person has violated a prohibition or failed to meet a requirement of this subchapter, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- (1) The performance of monitoring, analyses, and reporting;
- (2) The elimination of illicit connections or discharges;
- (3) That violating discharges, practices, or operations shall cease and desist;
- (4) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and
- (5) Payment of a fine to cover administrative and remediation costs; and
- (6) The implementation of source control or treatment BMPs.

(B) If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

(Ord. 2008-09-1, passed 10-6-08)

§ 53.33 APPEAL OF NOTICE OF VIOLATION.

Any person receiving a notice of violation may appeal the determination of the authorized enforcement agency. The notice of appeal must be received within 15 days from the date of the notice of violation. Hearing on the appeal before the appropriate authority or his/her designee shall take place within 15 days from the date of receipt of the notice of appeal. The decision of the Board of Public Works or their designee shall be final.

(Ord. No. 2008-09-1, passed 10-6-08)

§ 53.34 ENFORCEMENT MEASURES AFTER APPEAL.

If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within seven days of the decision of the municipal authority upholding the decision of the authorized enforcement agency, then representatives of the authorized enforcement agency shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

(Ord. 2008-09-1, passed 10-6-08)

§ 53.35 COST OF ABATEMENT OF THE VIOLATION.

(A) Within 30 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, if possible and known, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within 15 days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

(B) Any person violating any of the provisions of this subchapter shall become liable to the city by reason of such violation. The liability shall be paid in not more than 12 equal payments. Interest at the rate of 8% per annum shall be assessed on the balance beginning on the first day following discovery of the violation.

(Ord. No. 2008-09-1, passed 10-6-08)

§ 53.36 INJUNCTIVE RELIEF.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this subchapter. If a person has violated or continues to violate the provisions of this subchapter, the authorized enforcement agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

(Ord. No. 2008-09-1, passed 10-6-08)

§ 53.37 COMPENSATORY ACTION.

In lieu of enforcement proceedings, penalties, and remedies authorized by this subchapter, the authorized enforcement agency may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

(Ord. No. 2008-09-1, passed 10-6-08)

§ 53.38 VIOLATIONS DEEMED A PUBLIC NUISANCE.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this subchapter is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

(Ord. No. 2008-09-1, passed 10-6-08)

§ 53.39 CRIMINAL PROSECUTION.

(A) Any person who has violated or continues to violate this subchapter shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to the maximum penalties allowed by law.

(B) The authorized enforcement agency may recover all attorney's fees, engineer and expert witness fees, court costs and other expenses associated with enforcement of this subchapter, including sampling and monitoring expenses.

(Ord. No. 2008-09-1, passed 10-6-08)

§ 53.40 REMEDIES NOT EXCLUSIVE.

The remedies listed in this subchapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

(Ord. No. 2008-09-1, passed 10-6-08)

§ 53.41 CREDIT POLICY

(A) Credit will be available to all properties except individual Residential properties for various forms and levels of abatement as approved by the Board.

(B) Credit will only be allowed for lots and parcels of real property where structural controls are maintained in fully functional condition as determined by the Board

- (C) Credit may be allowed for previously constructed abatement features or storm water controls. The amount of credit granted will be determined by methods of design of the structure and as approved by the Board.
- (D) No credit shall be allowed for industries in compliance with federal laws and regulations regarding industrial storm water discharge permits.
- (E) No credit will be allowed for voluntary efforts to reduce the amount of pollutants in a user's storm water runoff or for improvements to the quality of a user's storm water discharge.
- (F) Credit will not be granted to properties draining into ponds or basins maintained or owned by the City. Credit may only be considered for privately owned and maintained regional controls.
- (G) Credits shall be computed on an ERU basis. A maximum credit equal to 80% of the gross ERUs originally assigned may be granted for the construction and maintenance of private storm water facilities considering the potential of each facility to reduce peak and/or volume storm water flow and direct discharge capabilities.
- (H) The formula for determining the applicable credit percentage for individual parcels shall be specifically set out by the Board.
- (I) Streets, roads and highways shall be given a 100% credit as they form an integral part of the Storm Water System.
- (J) An application for Credit shall be made on forms supplied by the Board and the City Clerk/Treasurer and shall be accompanied by an application fee in the sum of \$100.00. All applications will be reviewed by the Board within 60 days after submittal of an application for credit. At the discretion of the Board and as determined by the Board a credit issued or approved may be applied retroactively to the first billing cycle after said application has been submitted.
- (K) An application for credit or an appeal of determination thereon shall not constitute a valid reason for non-payment of the originally assessed storm water service charge by the Storm Water Utility user.
- (L) Appeals of credit determinations shall be considered and reviewed consistent with the procedures set out below for reconsideration of ERU determinations.

(Ord. 2008-09-1, passed 10-6-08)

§53.42 APPEAL OF ERU DETERMINATION

- (A) A Storm Water Utility user/customer shall have the right to appeal the ERU determination and thus the rate assessed in the following manner:

- (1) The Storm Water Utility user/customer shall obtain and complete a Petition to Appeal Storm Water Rate form the Clerk/Treasurer with verifiable documentation supporting the appeal.
- (2) The Board shall investigate the appeal and, upon review issue a written decision of the Board either that the original ERU determination and assessed rate should be affirmed or the Storm Water Fee should be adjusted in accordance with same.
- (3) If the Appeal is denied the Clerk/Treasurer the written denial shall be forwarded to the appellant by Certified Mail, Return Receipt Requested.
- (4) A Storm Water Utility customer/user aggrieved by the Board's decision shall have the right to judicial review of such determination in accordance with applicable Indiana law.
- (5) If said Appeal is granted the Storm Water Utility customer/user shall be credited for any overpayment made from the date of the filing of the Petition.
- (6) Dispute of or appeal of an ERU determination or storm water service rate shall not be a valid reason for non-payment of the originally assessed storm water utility user fee by the Storm Water Utility Customer/User.

(Ord. 2008-09-1, passed 10-6-08)

Ordinance No. 2008-09-1

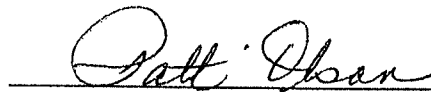
PASSED AND ADOPTED this 6th day of October, 2008.


David Uran, Presiding Officer

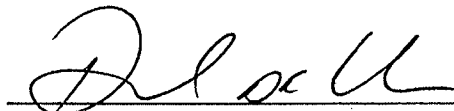
ATTEST:


Patti Olson, IAMC/CMC Clerk Treasurer

Presented by me to David Uran, Mayor of the City of Crown Point, Indiana,
this 6th day of October, 2008, at 7:00 p.m.


Patti Olson, IAMC/CMC Clerk-Treasurer

Approved, signed and returned by me to the Common Council of the City of
Crown Point, Indiana, this 6th day of October, 2008.


David Uran, Mayor